

SEWARD & KISSEL LLP

ONE BATTERY PARK PLAZA
NEW YORK, NEW YORK 10004

RITA M. GLAVIN
PARTNER
(212) 574-1309
glavin@sewkis.com

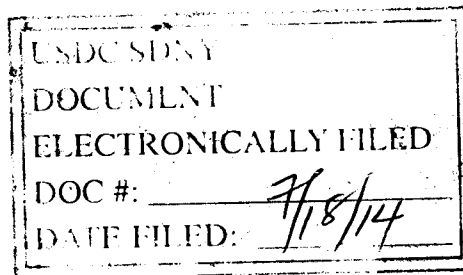
TELEPHONE: (212) 574-1200
FACSIMILE: (212) 480-8421
WWW.SEWKIS.COM

901 K STREET, NW
WASHINGTON, DC 20001
TELEPHONE: (202) 737-8833
FACSIMILE: (202) 737-5184

July 17, 2014

BY FACSIMILE

Honorable Victor Marrero
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007



Re: United States v. Johnny Morgan, 12 Cr. 223 (VM)

Dear Judge Marrero:

We write with regards to the government's second request for an extension of time to respond to the defense's June 20, 2014 motion to compel. Ordinarily, I would consent to any such request as a matter of professional courtesy. But under the circumstances, I must oppose this request because I fear additional delays and potential litigation, which could impact the current trial date of November 3.

The government has already requested and received an additional two weeks to respond to the motion to compel. Yet, two days before their opposition is due and nearly four weeks after the motion was filed, the government now seeks an additional week to prepare its response. If the requested extension is granted, the defense would likely need until mid-August to submit its reply due to other professional commitments. (Absent the extension, the defense is prepared to reply on July 25).

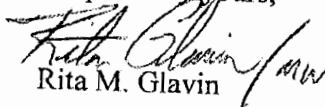
Moreover, the government claims that it "does not believe a ruling on the motion to compel in September or even October would implicate the [November] trial date." The defense does not agree. The documents that the defense seeks are relevant not only to prepare for trial, but more importantly, to the defense's still-pending *Daubert* motion and related motion to exclude. We respectfully submit that the Court should not issue any ruling on these motions until the defense obtains the FBI documents relating to the unreliability of LCN DNA testing, reviews the documents with its experts, and submits them to the Court for consideration. But this process cannot begin until the Court first rules on the motion to compel, and if the Court were to deny the motion, the defense may be forced to resort to the *Touhy* process, creating the potential for further pre-trial litigation.

Hon. Victor Marrero
July 17, 2014
Page 2


As the Court is aware, Mr. Morgan has been incarcerated as a pretrial detainee since January 20, 2012, and will be detained pending trial. The defense simply cannot afford any further delay of the November trial date.

For these reasons, we respectfully request that the Court deny the government's second request for an extension of time to respond to the defense's motion to compel, filed on June 20, 2014.

Respectfully yours,


Rita M. Glavin

cc: AUSA Amy Garzon (via email)

The Clerk of Court is directed to enter into the public record of this action the letter above submitted to the Court by	
<u>Defendant Johnny Morgan</u>	
SO ORDERED	
<u>7-8-14</u>	
DATE	VICTOR MARRERO, U.S.D.J.